IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

MFA.No. 782 of 2002(A)

OPMV.283/1996 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY
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APPELLANT: PETITIONER

LUCKA CHARTHALAYATHU,
S/O.MATHAYI, 33 YEARS,
CHARAL P.O., IRITTY (VIA),
PAYAM AMSOM DESOM.

BY ADV. SRI.SARVOTHAMAN

RESPONDENTS: RESPONDENT
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1. P.J.ALEXANDER, S/O.JOSEPH,
KARIKKOTAKARI, VALAYAMKODE, ARALAM AMSOM.

2. POOTHOTTAM APPACHAN @ ALEXANDER,
AGED 46/95, AROLAM AMSOM, VALAYAMKODE.

3. ORIENTAL INSURANCE COMPANY LTD.,
IRITTY.

4. CHERTHALAYATHU THOMAS THOMAS,
S/O.MATHAYI, AGED 32/95, AYAMKUNNU AMSOM,
ANGADIKADAVU.

5. T.P.MOIDU, NARIKKOLAPARAMBATH HOUSE,
KODIYARA P.O., KALLACHI (VIA).

6. THE NEW INDIA ASSURANCE COMPANY LTD.,
KANNUR.

BY ADV. SRI.C.VALSALAN
SRI.P.M.SAJI
SRI.P.V.JYOTHI PRASAD
SRI.P.JAYASANKAR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 782 OF 2002

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Dated this the 20th day of November, 2007

J U D G M E N T

Petitioner in O.P(MV) No.283 of 2001 on the file of the Motor Accidents Claims Tribunal, Thalassery, is the appellant. Petitioner filed the Original Petition claiming compensation on account of the injuries sustained by him in a motor vehicle accident. The appellant was travelling in a Jeep bearing Reg. No.KLD-5379, driven by the 4th respondent from Iritty to Charal. When the vehicle reached the place of occurrence, a collision took place between that Jeep with another Jeep bearing Reg. No.KBE-7566 driven by the second respondent. Petitioner filed the O.P. impleading the drivers, owners and Insurers of both the vehicles. Tribunal found that the drivers of both the vehicles were responsible for the accident and the petitioner is entitled to get compensation. Tribunal awarded Rs.22,100/-. Complaining the inadequacy of the compensation awarded, petitioner himself had filed this appeal. The only question arising for consideration is whether the appellant is

entitled to get any additional compensation.

2. Tribunal awarded Rs.11,000/- as general damages and Rs.11,100/- as special damages. Tribunal awarded Rs.7,000/- for pain and suffering and Rs.4,000/- for treatment expenses. But no amount was awarded for the injuries sustained by the petitioner. Exhibit A2 discharge card produced by the appellant shows that he sustained severe head injury which showed severe intra cerebral haematoma with mild diffuse brain odema, lacerated wound on the neck and intensive soft tissue with muscle damage on right forearm. In spite of the head injury sustained by the appellant, Tribunal has not awarded any compensation for the injuries.

3. It is true that the appellant has not produced any disability certificate. But considering the fact that he was treated as an inpatient for 15 days in the Medial College Hospital and also continued treatment, the Tribunal ought to have awarded Rs.20,000/- towards discomfort, disability, etc. But I do not find any ground to interfere with the compensation awarded by the Tribunal on any other counts.

So the appellant is entitled to get an additional compensation of Rs.20,000/- which will carry interest at the rate of 6% per annum from the date of petition till date of realisation.

In the result, appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an additional compensation of Rs.20,000/- with 6% interest per annum from the date of petition till date of realisation. Respondents 3 and 6 are directed to deposit that amount also in equal proportion. On deposit, the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 782 OF 2002

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J U D G M E N T

20TH NOVEMBER, 2007